

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF WEST VIRGINIA
ELKINS**

DARLENA KAY MORRISON,

Plaintiff,

v.

**CIVIL ACTION NO. 2:18-CV-116
(BAILEY)**

**NANCY A. BERRYHILL,
Acting Commissioner of Social Security,**

Defendant.

ORDER ADOPTING REPORT AND RECOMMENDATION

On this day, the above-styled matter came before this Court for consideration of the Report and Recommendation of United States Magistrate Judge Robert W. Trumble. [Doc. 24]. Pursuant to this Court's Local Rules, this action was referred to Magistrate Judge Trumble for submission of a proposed report and recommendation ("R&R"). Magistrate Judge Trumble filed his R&R on May 23, 2019, wherein he recommends this Court grant the plaintiff's motion for summary judgment [Doc. 16] be granted, defendant's motion for summary judgment [Doc. 19] be denied, and that the decision of the Commissioner be vacated and the case remanded to the Commissioner.

Pursuant to 28 U.S.C. § 636(b)(1)(c), this Court is required to make a *de novo* review of those portions of the magistrate judge's finding to which objection is made. However, the Court is not required to review, under a *de novo* or any other standard, the factual or legal conclusions of the magistrate judge as to those portions of the findings or recommendation to which no objections are addressed. ***Thomas v. Arn***, 474 U.S. 140, 150 (1985). In addition, failure to file timely objections constitutes waiver of *de novo* review

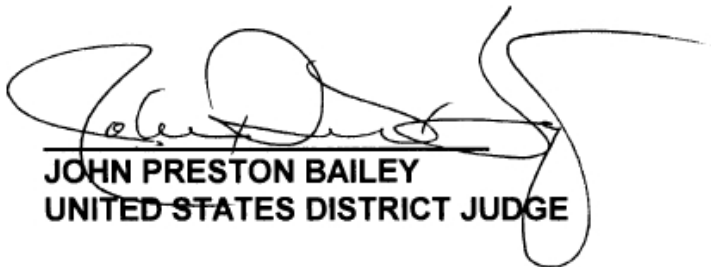
and the right to appeal this Court's Order. 28 U.S.C. § 636(b)(1); *Snyder v. Ridenour*, 889 F.2d 1363, 1366 (4th Cir. 1989); *United States v. Schronce*, 727 F.2d 91, 94 (4th Cir. 1984). Here, objections to Magistrate Judge Trumble's R&R were due within fourteen (14) days of service. To date, no objections have been filed. Accordingly, this Court will review the R&R for clear error.

Upon careful review, it is the opinion of this Court that the Report and Recommendation [Doc. 24] should be, and is, hereby **ORDERED ADOPTED** for the reasons more fully stated in the magistrate judge's report. As such, this Court hereby **GRANTS** the plaintiff's Motion for Summary Judgment [Doc. 16]. Further, defendant's Motion for Summary Judgment [Doc. 19] is **DENIED**. The decision of the Commissioner is **VACATED**, and this case is **ORDERED REMANDED** to the Commissioner pursuant to sentence four of 42 U.S.C. § 405(g) to identify, resolve, and explain the resolution of the conflicts between the VE's testimony and the DOT, consistent with the directives herein and the relevant policies and regulations.

It is so **ORDERED**.

The Clerk is directed to transmit copies of this Order to all counsel of record herein.

DATED: June 7, 2019.



JOHN PRESTON BAILEY
UNITED STATES DISTRICT JUDGE